

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

IN RE:

DENNIS E. HECKER,  
  
Debtor.

Case No. 09-50779

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GELCO CORPORATION, D/B/A GE FLEET  
SERVICES, a Delaware corporation,

Plaintiff,

v.

DENNIS E. HECKER,  
  
Defendant.

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Adv. No. 09-05039

**GELCO CORPORATION, D/B/A/ GE FLEET SERVICES’  
OBJECTION TO HECKER’S MOTION FOR AN ORDER STAYING THIS  
ADVERSARY PROCEEDING**

Plaintiff GE Fleet Corporation, d/b/a/ GE Fleet Services (“GE Fleet”), the Plaintiff herein, objects to the Motion for Order Staying this Adversary Proceeding filed by Defendant Dennis E. Hecker (“Defendant”). In support of this Opposition, GE Fleet states the following:

1. Because Defendant has sought substantively identical stay relief in multiple adversary proceedings and plaintiffs in such related proceedings have filed compelling oppositions and objections, in the interests of judicial economy, GE Fleet joins in the opposition and objection of Chrysler Financial Services Americas, LLCs (“Chrysler Financial”) filed on October 16, 2009 (Docket No. 20)(the “Chrysler Financial Opposition”) in *Chrysler Financial Services Americas LLC v. Dennis E. Hecker*, Adversary Proceeding No. 09-05019. Specifically,

GE Fleet incorporates by reference the position, arguments, and issues raised in the Chrysler Financial Opposition.

2. Hecker has failed to meet his burden of demonstrating that an effective defense is impossible in this case. See e.g. *Koester v. Am Republic Invs., Inc.*, 11 F.3d 818, 823 (8<sup>th</sup> Cir. 1994). GE Fleet's case, like many other creditors, is based upon documents executed and delivered by Defendant. Therefore, Hecker's failure to testify does not make his defense impossible and his reliance on his Fifth Amendment Rights is not sufficient to warrant entry of an open-ended and broad stay of this adversary proceeding. *Micro Financial, Inc. v. Premier Holidays It'l, Inc.*, 385 F.3d 72, 77 (1<sup>st</sup> Cir. 2004); *Koester*, 11 F.3d at 823, 824. Indeed, negative inferences have long been recognized in civil actions. *Baxter v. Palmingiano*, 425 U.S. 308, 316 (1976).

3. The extraordinary relief of the stay should be denied.

### **CONCLUSION**

For these reasons and those set forth in the Chrysler Financial Opposition, GE Fleet respectfully requests that this Court deny Hecker's motion for stay.

Dated this 16<sup>th</sup> day of October, 2009.

GELCO CORPORATION D/B/A GE FLEET  
SERVICES, Plaintiff

By: /s/ Joshua A. Hasko

Joseph W. Lawver (#151269)

Joshua A. Hasko (#303471)

MESSERLI & KRAMER

1800 Fifth Street Towers

150 South Fifth Street

Minneapolis, Minnesota 55402

Telephone: (612) 672-3698

Facsimile: (612) 672-3777

Attorneys for Gelco Corporation d/b/a GE Fleet  
Services

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**CERTIFICATE OF SERVICE**

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I hereby certify that on October 16, 2009, I caused the following documents:

- **Gelco Corporation, d/b/a GE Fleet Services' Objection to Hecker's Motion for an Order Staying This Adversary Proceeding**

to be electronically filed with the Clerk of the Court through ECF, and that ECF will send an e-notice of the electronic filing to the following:

Matthew R. Burton     [mburton@loggs.com](mailto:mburton@loggs.com)

William R. Skolnick     [wskolnick@skolnick-shiff.com](mailto:wskolnick@skolnick-shiff.com), [zpuchtel@skolnick-shiff.com](mailto:zpuchtel@skolnick-shiff.com); [petricka@visi.com](mailto:petricka@visi.com); [rcargill@skolnick-shiff.com](mailto:rcargill@skolnick-shiff.com); [dlarson@skolnick-shiff.com](mailto:dlarson@skolnick-shiff.com)

I further certify that I caused a copy of the foregoing document and the notice of electronic filing to be mailed by first class mail, postage paid, to the following non-ECF participants:

None.

Dated: October 16, 2009

s/Nena Kuhnly

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Nena Kuhnly, Legal Administrative Assistant  
Messerli & Kramer, PA  
1400 Fifth Street Towers  
100 South Fifth Street  
Minneapolis, MN 55402  
(612) 672-3600

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